

United States District Court
Southern District of New York

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DOC #:
DATE FILED: 3/2/11

SERGEI CHEPILKO,

Plaintiff,

08 Civ. 4033 (JGK)

- against -

ORDER

CIGNA GROUP INSURANCE,

Defendant.

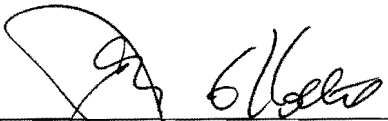
JOHN G. KOELTL, District Judge:

The Court has received and reviewed the Report and Recommendation of Magistrate Judge Ellis dated February 2, 2011 recommending that the plaintiff's motion to reopen this case be granted because the discontinuance was based on incomplete information and the parties had not entered into a binding settlement. No objections have been filed. The Court agrees with the Report that a binding settlement was not reached under the standards articulated by the Court of Appeals for the Second Circuit in Winston v. Mediafare Entertainment Corp., 777 F.2d 78, 80 (2d Cir. 1985). The Court does not rely on the failure of the agreement to satisfy N.Y. C.P.L.R. § 2104 because that procedural rule is not binding in this case, which involves claims based on federal law. See Figureoa v. City of N.Y., No. 05 Civ. 9594, 2011 WL 309061, at *5 (S.D.N.Y. Feb. 1, 2011).

Therefore, the plaintiff's motion to reopen is granted.
The Clerk is directed to reopen this case and to close Docket
No. 46.

SO ORDERED.

Dated: New York, New York
March /, 2011



John G. Koeltl
United States District Judge